

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ESTATE OF SANDRA VELA, et al.,
Plaintiffs,
v.
COUNTY OF MONTEREY, et al.,
Defendants.

Case No. [5:16-cv-02375-BLF](#) (HRL)

**ORDER RE DISCOVERY DISPUTE
JOINT REPORT NO. 2**

Re: Dkt. No. 88

In Discovery Dispute Joint Report (DDJR) No. 2, plaintiffs move to compel defendant County of Monterey (County) to produce the personnel file for defendant Barbara Fulkerson.¹ Relevance is not disputed. Indeed, the County agrees that plaintiffs are entitled to the file. However, this court is told that, at some point, Fulkerson conveyed objections to the County based on her bankruptcy proceeding (and the resulting stay of this litigation as to her) and her separate proceeding challenging the termination of her employment with the County. Plaintiffs say that they were unaware of any objection by Fulkerson until the filing of the present DDJR.

In view of Fulkerson's October 18, 2017 deposition, and at the parties' request, this court heard the matter on an expedited basis on October 13, 2017. Although Fulkerson's counsel were

¹ The document requests at issue are 27-29, 40, 53, and 60.

1 not participants in DDJR 2, nor in the meet-and-confer efforts that preceded it, the court invited
2 them to participate in the hearing. (Dkt. 89). They made no appearance. Having considered
3 DDJR 2 and the oral arguments presented, the court announced its ruling from the bench at the
4 motion hearing, now memorialized by this order.

5 Plaintiffs' request for an order compelling the County to produce Fulkerson's personnel
6 records is granted. There is no indication that Fulkerson has sought relief from the bankruptcy
7 court as to the subject discovery. In any event, this court is unpersuaded that the bankruptcy stay
8 would preclude production of those records. The requests at issue are not discovery propounded
9 on Fulkerson; they are discovery of the County about Fulkerson. Nor does the court find that
10 production of her personnel file would have any impact upon Fulkerson's separate proceeding
11 against the County for wrongful termination. The documents are relevant to Fulkerson's alleged
12 actions and inactions at issue in this litigation, which are issues to be explored in Fulkerson's
13 upcoming deposition. And, the documents are ancillary to that deposition, which is proceeding
14 based upon a stipulation by Fulkerson's counsel. (Dkt. 62). The County shall produce the records
15 forthwith.

16 SO ORDERED.

17 Dated: October 16, 2017

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HOWARD R. LLOYD
United States Magistrate Judge